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THE GENESIS OF POLITICAL AUTHORITY AND OF A COMMON-
WEALTH GOVERNMENT IN OREGON.

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At the present time, when interest is becoming more generally centered upon the Pacific Coast and the future which seems to be lying before it during the next century of our national life, any contribution to a knowledge of its history can hardly be out of place. It is quite clear that from now on through the future it must more and more pass out from the sphere of purely local interest and assume a larger place in the current of our national history. Although the southern half of the coast may be more familiar to the greater number of people, yet the northern half has a history which is fully as rich and well repays most careful study. Of the many interesting phases which have presented themselves, none has had so great an attraction for the writer as the

development of civil institutions. It is interesting to review the gradual evolution of a locality from primitive conditions of wildness to that perfect form of social life where individuals act under the privileges and restrictions of a civil government, voluntarily imposed and perfectly integrated with the larger scheme of national government. It is a stimulating process to try to make any correct estimate of the various agencies which have taken part in the complex process of growth, and to place an accurate valuation upon the services of leading personalities, the influence of aggregates of less prominent individuals, and general determining influences which may not at first be seen at all. It is a test of judgment to put oneself at the different points of view, so often conflicting, to be fair to all and to be firm in drawing conclusions where the weight of evidence seems to lie; and a knowledge of the slowness of this process of growth, with the careful thought and heroic action by which it has come about, creates a respect for government and prepares for a wiser use of the privileges enjoyed under its beneficent rule. In following out the theme set before us it is to be remembered that by Oregon is meant that piece of territory whose boundaries have been gradually shrinking to their present compass from an area extending from the Spanish possessions at the forty-second degree of latitude to the Russian possessions at the fifty-fifth degree, and between the Rocky Mountains and the Pacific Ocean.

In many respects this history resembles that of the other states of our Union. In common with them there has been a gradual growth from those fragmentary germs of civic life out of which civil government grows, which fragmentary forms begin to operate as soon as individuals come together in social relation, often long before localities are entitled to take their places as parts of a

nation. As in the case of other states, there was the acquisition of territory, in this case preceded by a partial acquisition. Like the other states, it has passed through the various steps prescribed by congress for the transition from newly acquired territory to perfect statehood ; but, as other states have passed through this common process with a great variety of interesting and unique experiences, so Oregon has had its own history, peculiar to itself, and in some respects different from that of any other state. It is the purpose of this paper to set forth briefly the leading facts, so far as they may be gained from the sources at present available, and to present them, so far as possible, in historical perspective, and as a part of the growth of our national life.

In the examination of a subject connected with local history it is easy to be carried away by local circumstances, and to fail to grasp those larger features which connect it with the history of the nation and to some extent with that of the world. Our truest knowledge of the subject, however, will come from this broader approach and a search first for those general conditions which underlay the more detailed history and were instrumental in determining its drift.

In order that we may see the wider scope of our subject we need only to remember that during the early centuries of exploration the territory whose civil life we are to study was at stake in the great struggle between those countries which were striving for the mastery of the world, and many a stroke of policy that seemed to affect these remote regions had its only significance as it bore upon the conflict of England and Spain. And then, when the Russian Empire, through the impetus received from Peter the Great and Catherine II, continued its process of expansion eastward, its outer wave reached the western shores of America and they became an import-

ant factor in the larger stream of world history. And finally when the thirteen colonies separated from England, this new and vigorous nation found an interest in those regions, and they became an important factor in the relations of England and the United States.

In the study of the development of civil government in Oregon, since the region has had any interest to our nation, we need first to note those general conditions which have to a large extent been responsible for the detailed history. The one which is perhaps most apparent and whose effect has been greatest, is the geographical location of the territory as compared with the rest of the United States. Separated from the older sections of the country by long stretches of prairie, and by two large mountain systems, accessible by water only after a long and tedious journey around Cape Horn, its position was one of extreme isolation. This peculiar isolation explains very much that is characteristic of the early history of our civil government. It explains the ignorance that prevailed so long in the older sections regarding the value of the country, and the consequent apathy against which the champions of the west in congress had so long to contend ; it explains, likewise, that voluntary and heroic action by which the colonists, stung by the delays and impelled by their needs and desires for a democratic type of government, took the initiative and brought into being a pioneer provisional state to bridge over the period of delay, and to hold the country in trust until the slow movings of the national consciousness should awaken to its interests.

Another and equally important factor in determining the drift of events was the joint claim and occupancy of the country with England. The history of civil government under such circumstances must necessarily be different from that of territory fully acquired by the

national government. It is clear that it must connect, indissolubly, the question of a government with that of the boundary, and render any satisfactory solution of the former impossible until the settlement of the latter. The framing of any kind of a plan of government that would really be efficient without giving cause for offense to the partner to the title of the land must be a problem of the most difficult nature, as it was found to be. And the problem was still further complicated by reason of the fact that the question of boundary belonged to the executive part of the government, while that of the formation of a civil government belonged to the legislative. And then, too, by virtue of its being thrown into the realm of international affairs, the formation of a civil government was delayed because of its connection with that complicated balancing of interests which always characterizes diplomatic procedure, where settlement of questions is slow and oftentimes accompanied by national friction.

To joint occupancy also must be attributed the throwing into close relationship of two different and antagonistic types of life. There was in the first place the difference of nationality, which, in view of the feelings engendered in the struggle for independence and the war of 1812, did not promise cordiality; there was the difference of industrial systems which brought into sharpest and most bitter conflict the ably managed monopoly of the English company and the independent American trader or trapper with his idea of free competition and equal right to operation in the region jointly held. And lastly, there was the difference in regard to the treatment of the native races. The English found it mostly to their interest to leave things as they were, and to keep the country a wilderness, suitable for a trapping ground for many years to come, while the Americans aspired to better

the life of the savage, and to build up a condition of civilized life. The difference was all the more marked because of the entrance of the missionaries and the important part played by these leaders, who exercised an influence perhaps second only to that of the early religious leaders of New England, and whose energies were untiring in the interests of good government and a moral population. That two such diverse types of life could exist side by side during the twenty-eight years of joint occupancy without influencing the course of civil government is not to be conceived. That the relation was harmonious at first is true, but that irritations arose as time went on was inevitable.

In any analysis of the influences affecting the course of civil government in Oregon a prominent place should be given to that slow yet powerful westward movement of population. It consisted of a people aggressive and assertive of their own desires, patriotic, and upright in the main, with a consciousness of their own wants and their ability to get them, and possessing but little knowledge of, or reverence for, the intricacies of international usage, or the restrictions of a conservative legislative body. Being a part of the people, they were the sovereign power, and if they determined upon having the west, it must finally be had. This was a movement which led thousands of intrepid immigrants to anticipate the government in going to remote regions. Those who remained behind had now a greater interest in the country, and ere long it was to be the impulse from this movement which aroused the national consciousness to the importance of the Oregon question, gave it a place among the problems of the nation, put it upon the platform of a political party as a prominent issue, and forced a settlement of the boundary, and finally secured a civil government.

After all other difficulties were overcome, after the barrier of distance was removed, after the stormy season of threatened war over the boundary line had passed away, civil government in Oregon became inevitably connected with another question which was to affect its destiny. The deepening bitterness between the north and the south was drawing everything into the maelstrom of slavery discussion, and particularly was this true in the case of every piece of newly acquired territory whose destiny was inseparably connected with the defeat or justification of the system of slavery.

With this brief survey of the general conditions which have operated to determine the course of events, the narrative of the more important details in the growth of civil government in Oregon may be better understood. We find that in the days of the discoverer, explorer, and fur trader there was no civil government at all, except such as was exercised by the native races for the regulation of their primitive life. Every one was dependent upon his own resources for the protection of life and property. From the time that the first Spanish ship, under the command of Ferrelo, touched the southern shore of Oregon, in the middle of the sixteenth century, until the beginning of the nineteenth, there was as much freedom from the restraints of social order as any anarchist could wish. There was nothing to check the conflicts that might arise between the crews of vessels, from the same or different nations, in their eagerness for the glories of discovery or the profits of trade with the Indians. There was nothing to shield from the danger of massacres from tribes, hostile by nature, or by contact with the whites. The explorer or trader who penetrated the interior must trust to his own ability for safety, and to his judgment in making friends with the Indians. There was nothing to regulate men in the struggle to

reap the natural advantages of the region. They had little interest in the Indians, except as they could use them to their profit; they had small regard for the rights of others, as they were outside the pale of rights and laws; they cared nothing for the conditions that they made for the future, as it was not to be their home. It was a period for romantic adventures, to pass away before the quieter but more beneficent regime of social order.

When, however, the scattered fur trading interests began to centralize by the formation of fur trading companies, some of the functions which belong to a civil government began to arise. The Pacific Fur Company, established by John Jacob Astor at the mouth of the Columbia River in 1811, with its little fort, exercised a greater authority in the protection of life and property than had existed before. It aimed to produce a condition of things more in harmony with a normal and peaceable trade. Its English successor, the Northwest Fur Company, established in control of the region after the war of 1812, was still more powerful. After consolidation with its rival, the Hudson's Bay Company, its charter rights were extended, and, although only a trading company, the necessities of its position led it to the exercise of many of the functions of a civil government. Its control of its large number of employees was complete; its power over the native races was absolute; by judicious methods and quick retribution for offenses, it succeeded in rendering the wilderness a safe place for traders, explorers, and missionaries. Moreover, the possibilities for trouble which arose from the coming of American trappers and traders led to an additional step in the development of civil government, and one which more properly falls under that head.

In 1821 the English Parliament passed a bill by the

terms of which the laws of Canada were extended over English subjects operating in the country to the south. Provision was made for justices of the peace, before whom cases were brought, and, if sufficiently important, were sent to the courts of Canada.¹ In this way, then, did the English government follow its subjects, and become the first real civil government exercised in the country, although it was exercised in the interests of only part of the inhabitants. England had found a way to look after her subjects without violating the strict terms of the treaty of joint occupancy.

The office of justice was held by officers of the fur trading company, whose power and prestige was thus increased. The history of government for about twenty years is summed up in the person of one man, Dr. John McLoughlin. The exercise of authority by that masterful character of early times still lives in the minds of the oldest pioneers, and has found expression in many of the records which constitute the sources of Oregon's history. Although the official agent of the English company, a Scotchman by nationality, a Catholic in religion, and loyal to all the interests he represented, he was a man of too large a mold to be anything other than the instrument of justice and good order for all classes of people who might come within the bounds where his jurisdiction was exercised. "From 1823 to 1845 he was the controlling power in the country, and did more than any one else to preserve order, peace and good will among the conflicting and sometimes lawless elements of the population."² Autocratic in his methods and strict in the enforcement of justice, he was yet kindly and merciful. His tours about the country to settle any

¹Act of Parliament in appendix to Greenhow's History of Oregon.

²Matthew P. Deady.

difficulties that might have arisen in any of the trading posts, or agricultural settlements of ex-employees, were regular features of the early days, and were very effective.³

The inability of the independent fur trader to compete with the English company, and the comparative advantage that the English subject had in the protection by his country's laws, naturally led to a feeling of dissatisfaction on the part of the American trader, and a belief that under the cover of a business enterprise the English civil government was gradually settling itself over the country to the exclusion of the American, whose interests and rights were equal according to the treaty of joint occupancy. That John Jacob Astor had not renewed his enterprise after the restoration of the fort at Astoria at the close of the war of 1812, was due to the refusal of the government, during Madison's administration, to guarantee his company the protection of the United States in case of trouble.⁴ Had that been done, company would have been in competition with company, and the conditions would have been more equal. As it was, however, the United States' interests were represented and her hold maintained only by such independent traders and trappers as ventured into the country, and usually failed of maintaining themselves for any great length of time.

It was such a condition of affairs that came to the knowledge of the people, and finally reached those channels where it gained entrance into our national policy. It was a significant circumstance in the history of civil government in Oregon, that, in the winter of 1820 and 1821, four men were thrown together at a hotel in the

³Conversation with Dr. Wm. Geiger, pioneer of 1842.

⁴Benton's Thirty Years in the Senate.

City of Washington.⁵ Two of them, Ramsey Crooks of New York and Russell Farnham of Massachusetts, were traders who had been connected with the unsuccessful enterprise of Mr. Astor. The other two were members of congress, John Floyd of Virginia and Thomas H. Benton of Missouri. Mr. Benton had for some time been interested in the question, and had been pondering upon a method of procedure. During this period of acquaintance they talked much together and became convinced of the advisability of an aggressive campaign for the protection of American trappers and traders, and the maintenance of the full American rights in the joint territory.

There were probably no better men to take the leadership in a movement of this kind than Floyd and Benton. Both were western in their training and in their sympathies, and both were enthusiastic in any movement pertaining to a westward extension of the country. Western men were already beginning to have weight in the national councils, and were exerting a distinct influence upon national policy. Although rough and unskilled in many of the essentials of good government, their influence tended toward a true American life and a broader idea of American national destiny.

The course upon which they entered, though carefully considered, was a bold one. The Oregon country was very far off and few knew very much about it. It seemed a land so far away that the American people, as a whole, had nothing to do with it. Perhaps they had heard of the Oregon river, and it had a place in their imagination along with the ideal beauty of Bryant's poetic country; perhaps they had learned of the part performed by Captain Robert Gray and his ship *Columbia* in crossing the

⁵Irving's Astoria.

bar at the mouth, and revealing to the knowledge of his country and the world another great river; perhaps they knew of Jefferson's romantic interest in the country and the expedition which he sent under Lewis and Clark; they probably knew that fur traders had gone there, and that an American fur company, at the time of the war of 1812, had been forced to sell out and its place taken by an English one; they knew that there was an American claim, which was felt to be quite strong, and that a treaty had been made with England providing for a joint occupancy; but there was no consciousness that the question was one of practical importance to the existing generation, except on the part of the more far-seeing. The people's representatives in congress were more conservative than the people themselves, and a conception of the larger United States had taken possession of but a few.

The executive department was in advance of the legislative, for James Monroe was President and John Quincy Adams, Secretary of State—two men who were at the front in the breadth of their political ideas, as shown by the Monroe doctrine, originated by Adams, endorsed and declared by Monroe. In the clause that refused to European powers the right longer to colonize on American territory, it was the Oregon country that was thus protected against the aggressions of Russia at the same time that a hint was given to England. No executive had been more courageous in asserting the intention of the United States to maintain her larger interests, and none had been more disposed to follow with national protection, so far as conformed with treaty relation, her citizens who were leading in the westward expansion of the country.

Under such conditions what might the champions of an aggressive campaign expect to accomplish? Minds

were filled with many questions. What was it right to do, and what was expedient; could a military post be established in the country as the President and Secretary wanted; could lands be granted to settlers as prospective emigrants wanted; could settlements be made and a civil government established as Floyd and Benton wanted? If it was right to do these things, was it expedient to do them, with the possibility of jeopardizing other interests less remote; was the nation ready to commit itself to an expansion of territory which might bring about many changes, and perhaps many dangers?

It was the work of these men, by patient, persistent and continued effort to arouse a sentiment favorable to American interests, to gather and disseminate such information as would help to make a public opinion, and to keep the subject before congress and the people all the time. Confident themselves in the value of the country to the United States, and of the right of title to the country, they were anxious for a movement looking toward permanent occupation.

It was a memorable day in the history of civil government in Oregon, when, in December of 1820, Floyd initiated his policy in the house, by a motion for the appointment of a committee to inquire into the situation of the settlements on the Pacific, and the expediency of occupying the Columbia River.⁶ It did not attract much attention at the time, but was referred to a committee, of which Floyd was chairman. In a carefully prepared report, containing all the information that could be secured, the plan was pronounced expedient and a bill proposed to carry it into effect. This bill provided for the military occupation of the Oregon Territory, the extinguishment of the Indian title to the land, and the

⁶Annals of Congress and Congressional Debates are authorities used upon discussions in the legislature.

establishment of a civil government. It was nearly two years, however, before it could be brought to a discussion, on account of the dilatory tactics of the opposition, or because of its apparent unimportance. After it was debated it failed of passage by a vote of one hundred to sixty-one, which was not a bad defeat considering the character of the bill.

The same process was gone through again, another committee appointed, and another bill reported, which was similar to the first one, except in the greater inducement to settlers in the granting of lands, and in the greater stress laid upon the necessity for some plan of civil government in the territory. This bill, after discussion, was passed by a vote of one hundred and thirteen to fifty-seven, and Floyd had the satisfaction of seeing such a flattering result from his four years of hard work. He had done all that he could do and now it must be submitted to the tender mercies of the senate. Mr. Benton had already introduced a resolution "instructing the committee on military affairs to inquire into the expediency of making an appropriation to enable the President of the United States to take and retain possession of the Territories of the United States on the Northwest Coast of America;" and he had made a strong speech in advocacy of the movement. Although the resolution was adopted, no report ever came from the committee. When the bill came from the house, after several times being laid on the table and taken up again for discussion, it received a final defeat by a vote of twenty-five to fourteen.

For three years nothing was done. Then Floyd, with a tenacity worthy of the cause, proposed another bill. It resembled the others, but during the process of discussion was stripped of one feature after another until the only provisions left for government were the establish-

ment of military posts, and the right of American citizens to trial in American courts, and under the laws of the states into which they might be brought. It will thus be seen that all previous propositions had gradually been reduced, by a process of elimination, to a provision exactly similar to the one which the English already had in operation, except the additional feature of military posts, and although this was the most moderate bill yet offered it was defeated by a vote of ninety-nine to seventy-five.

As Floyd's term of office expired and he was not returned, the first campaign for the extension of American civil government over Oregon was ended. Both Floyd and Benton had done nobly. In the face of opposition, and even ridicule, they had persistently held their course until they had seen their measure pass one house, and though defeated, get a respectable vote in the other. In their work they had valuable assistance. Several strong supporters appeared in the house and in the senate, particularly among the younger men; President Monroe by his messages to congress urged the importance of establishing a military post at the mouth of the Columbia, and along the route across the country; John Quincy Adams, by his assertions in regard to the validity of the American title to the country, and later on by his messages, strengthened their case; the War Department, then under John C. Calhoun, made a report through one of its most trusted authorities, General Thomas S. Jesup, who strongly advocated military occupation; while at least three associations of citizens from Massachusetts, Louisiana, and Ohio presented memorials to the house, asking for grants of land and the protection of the American government. The Massachusetts memorial was the result of the zealous work of Hall J. Kelley, a school teacher of Massachusetts, who was an enthusiast upon

the settlement of Oregon, and who had been agitating the question both in his own state and in the City of Washington for several years before it was taken up in congress.

While great credit is to be given the far-sighted and courageous advocates of the bill, it is not fair in a historical paper to minimize the efforts of the opposition. To characterize the opponents as ultra-conservative or self-interested would not be just to the many weighty arguments which they brought forward, and which, looked at from the standpoint of their day, were weightier than they seem now, when conditions have so changed. For a new nation, with a new national machinery, hardly yet in smoothly running order, to attempt expansion into regions separated by natural barriers, and inaccessible before the application of steam to travel, might well require careful thought.

This first attempt, though it had failed of accomplishing its immediate end, was highly creditable to all who were engaged in it, and its results were not small. Interest had been awakened, not alone among the members of congress, but more particularly among the people throughout the country. Circulars containing all the information available, were prepared and sent to the constituents of congressmen, and the nation began to be committed to a policy which it would take time fully to realize. The people had gained the impression that the United States' title was perfectly clear to the whole valley of the Columbia; that the English were there only by sufferance until the formal settlement of a boundary at a more convenient time; and that the government was willing that American immigrants should occupy it, and would protect them as well as it could.

The debates which occurred at various times in connection with these early bills are interesting, not alone

because they mark the beginning of a large and important national movement, but also because of the light they throw upon the times, because of the discussion of important principles which always come to the surface in large national questions, and the fine examples of courage and far-sighted aggressiveness on one side, and cautious conservatism on the other. Almost every point of view which it would seem possible to conceive of found expression in some form or other in the course of the debate; and almost every motive for or against the policy was voiced.

In this first debate the question of the claim does not figure largely, as it was quite generally assumed by all that the American title was valid, and was so pronounced by those in whom the people had confidence. There had been, however, no critical examination of the subject as yet on either side, but the American government felt so confident that it did not realize any necessity for haste.

In the first place it was incumbent upon the advocates of this measure to show the expediency of their proposal. They had been called visionary and fanciful. That it was only the continuation of a growth that had characterized all our past history, was well expressed by Floyd in the words: "At most it is only acting upon precisely the same principle which has directed the progress of population from the moment the English first landed in Virginia." In the various reports and debates much emphasis was placed upon the material benefit which would follow. By statistics, the value of the fur trade was exhibited as well as that of the whale fisheries, the returns from which two industries alone would many times repay all expenses incurred; while the possible resources in the line of agricultural wealth, though scarcely known, were boldly prophesied.

While some regarded the measure as visionary, others opposed it because it seemed too practical, would draw capital and labor from the older sections, where they were still needed, and would beget a trade with the Orient which would detract from that of the Atlantic Coast. No friend of the measure could have painted a bolder and more prophetic picture than that of the opponent who said: "The trade of the Pacific will naturally be with China, Japan, and the Philippines. They will not only be invited to this by their local position, but by the circumstances of their situation. Commerce is never so profitable as when it is carried on between a newly settled country, in which land is fresh and easily obtained, and one in which a dense population has made manufactures cheap and abundant." Considerable importance was attached to the establishment of a waterway connection by the river systems of the Missouri and Columbia, between the east and the west, "when distance and time will be conquered, and the ends of the earth be brought together." Should this prove feasible, and statistics were not wanting to demonstrate it, the United States would have the proud distinction of establishing that waterway for which the nations had been so many centuries in search.

Attention was called to the value to the nation there would be in the encouragement of the fisheries, for the training of seamen, and the advantages of a naval station at the mouth of the Columbia in case of war with Great Britain. General Jesup suggested that troops stationed there could be used in removing the British from the territory when the time came to settle the boundary. Such propositions were not palatable to the English, nor were they especially calculated to hasten a friendly settlement of such diplomatic proceedings as were necessary at a later time. They rather served the purpose

of strengthening whatever purpose the English had of looking out for their own interests. But they were clearer and more forcible announcements of the view of the American people than England could get through the diplomatic service.

In the history of civil government in Oregon there are two distinct movements, that of the regularly organized government, and that of the people themselves. They serve as the complement of each other, and act and react upon one another in a multitude of ways. Every time that the question was before congress it reacted upon the people, and the impetus thus set in motion again reacted upon a slower moving congress. In the westward expansion of our territory the movement of people has always preceded that of the national government. In the case of Oregon, through remoteness of the territory, and the difficulties arising from the joint claim and occupancy, the quicker movement of the people was more marked and the corresponding slowness of the government more irritating. This feeling of restriction is expressed by Floyd in the words: "All governments, republican as well as royal, take upon themselves the exclusive privilege of thinking for the people, of checking the progress of population in one direction or fixing the boundaries to it in another, beyond which they are not permitted to pass."

It had often been stated in the debate that a superior power had set the Rocky Mountains as the western boundary of the United States, and it is interesting to know that the following reply came from a representative of Massachusetts: "As we reach the Rocky Mountains, we would be unwise did we not pass the narrow space which separates the mountains from the ocean, to secure advantages far greater than the existing advantages of all the country between the Mississippi and the

mountains. Sir, our national boundary is the Pacific Ocean. The swelling tide of our population must and will roll on until that mighty ocean limits our territorial empire. Then, with two oceans washing our shores, the commercial wealth of the world is ours, and imagination can hardly conceive the greatness, the grandeur, and the power that await us.”⁷

There were other objections which seemed far more weighty than those of material inexpediency. The principle of colonization which would be forced upon the United States was regarded as a menace. “Should this principle now be recognized, it may hereafter be quoted as a precedent for measures which will change the condition and nature of the government, an event to be intimately associated with its destruction, or at least with the prostration of that liberty for the protection of which alone we can wish the government to exist.” Although it was shown that the probabilities were that the territory would become an integral part of the United States, yet the champions of the west were undaunted in defending colonization if it should come to that. Again it was the representative from Massachusetts who replied: “Was Great Britain more powerful, wealthy and happy before she began to colonize than now? Notwithstanding all her exhausting wars, all the drain of her colonial emigration, she was never more populous, more wealthy or more powerful than she is at this present day. Colonization does not impair the strength or diminish the wealth of nations. Some now within these walls may in after times cherish delightful recollections of this day when America, almost shrinking from the shadow of coming events, first placed her feet upon untrodden ground, scarcely daring to anticipate the grandeur which awaited her.”⁷

⁷Hon. Francis Baylies.

Equally great was the fear of entanglements with foreign nations, and particularly war with England because of a violation of the treaty, an objection which, perhaps, weighed most heavily in defeating the bill. Nor was this objection ungrounded considering the newness of the nation and the necessity of a period of peace for knitting together the internal fibres of strength. For this there was, of course, no demonstration, nor could it be opposed by proof, and yet there was courage in the answer: "Arguments founded on what may happen would go equally to prove the futility of establishing a navy which may be captured by an adversary. If a measure is right in itself it is unwise to reject it because its beneficial effects may be defeated by a war."

As might be expected in those days, every question must be tested by its effect upon the Union. The desire to perpetuate the Union, so dearly purchased, has laid at the foundation of many a policy. For its sake many things, desirable in themselves, have been given up or long delayed. That the national government could operate over a territory so vast, and regions so remote, with barriers separating them geographically from other sections, was questionable in the day before railroads and telegraphs. Yet, with a confidence inspired by their belief in the right of their position and in the final adjustment of national affairs to this action, the advocates of the measure argued that it would rather strengthen than weaken the Union: "The danger of separation would be less in a confederacy of twenty or thirty states with diverse interests than in one of smaller number," because the multiplication of interests would neutralize divisions which grow strong where the number is small.

Lastly, it was held that there was no need for present action, that no request had been made by the business public; it was a question to be settled not by the present

generation, but by the one to follow, and that no harm, either to the American title or interests, could result.

In the senate the discussion was briefer, but covered essentially the same ground. Benton took the leading part in favor of the bill, but received help from one of the senators from Virginia. The opposition cast much ridicule upon the idea of a senator going to and from Washington in less than a year, either by land or by water, around Cape Horn.

It is not possible in the compass of this paper to give a full account of this interesting debate, but only so much as will characterize the first movement toward governmental control by the United States. As we retrace the discussions, in the light of subsequent events, we cannot refrain from admiration of those who optimistically trusted that the measure, if right in itself, need cause no fear of danger in the future.

After the retirement of Mr. Floyd no leader appeared to continue the work begun, and consequently the subject dropped out of legislative discussion for about ten years, with the exception of an occasional resolution and a brief discussion. The interval of rest, however, was not such as follows the defeat of a measure, but was, rather, a period of preparation for another and greater effort. Many influences were set in motion which showed that the national consciousness was beginning to work. It was during this interval that Captain Bonneville and Capt. Nathaniel J. Wyeth made such heroic attempts to establish a trade west of the Rocky Mountains, with experiences equalling anything in romance. In a letter to his brother, Captain Wyeth says :⁸ "The formation of a trading company on a similar plan to the Hudson Bay and the Northwest is the ultimate

⁸The Correspondence and Journals of Capt. Nathaniel J. Wyeth, edited by F. G. Young.

object of my going to that country." Before starting he offered his services to the government for the purpose of gaining information for them, and without "other compensation than the respectability attached to all those who serve their country." Whether his offer was accepted or not does not appear from the correspondence, but the entrance into the country of such a man, with his companions, must mean a great deal in the clearing up of obscure questions. It was at this time, also, that Hall J. Kelley, who had been such a persistent and patriotic advocate of settlement, reached the country. Disappointed in not being able to secure grants of land and the protection of the government, he reached Oregon, after many hardships, with a few companions, and began the nucleus of a little settlement. Equally important was the impulse which missionary activity in the East had received from a fuller knowledge of this new and attractive field. Thus the religious motive was added to the patriotic, and both were added to the zeal for trade and adventure, in drawing attention to the new country.

Although the United States Government would give no guarantee of protection, yet the new arrivals met in those regions a condition of safety rarely found in so wild and remote a locality, and, for the time being, at least, were glad to avail themselves of the security offered by the Hudson's Bay Company. Nor is it to be supposed that the colonists were entirely neglected by the Government of the United States. Though unable to grant fully the wishes for a civil government, or even for military posts, yet every executive took measures to gain such information as would keep the government well advised, and enable it to see that the brave forerunners of settlement suffered no personal injury. The interval of rest fell within the administrations of Presi-

dent Jackson, and his policy seems to have been one simply of watchfulness and the gaining of knowledge. To this end William A. Slacum, of the United States Navy, was appointed as a special agent, to visit Oregon and examine the conditions. This is important, as marking the policy the government intended to pursue while things were in process of transition. If the protection given was not adequate, it at least dispels the suspicion of utter heartlessness which would attach to a government which would let its citizens go, in support of its own interests, into this wilderness, without a single thought for their safety.

When the question, therefore, next came up for discussion, conditions had considerably changed. Traders had ventured into the country, missionary stations had been established, more knowledge of the country had been gained, a more careful examination of the title had been made by the conference which met in 1827, and the cause had enlisted the interest of some of the strongest men in political life.

In the second campaign the initiative was transferred from the house to the senate, and an able leader was found in the senator from Missouri, Dr. Lewis F. Linn. He was the colleague of Benton, and a man commanding the highest esteem of his associates. The attack began by a bill of February, 1838, for the occupation of the Columbia and the establishment of a civil government similar to previous bills. Meeting with failure, it was followed, as in the previous campaign, by several others, and, in spite of the assembling of the conference for the settlement of the northeastern boundary, in 1842, the discussions were carried on with a nearness to that event which seemed dangerous to Mr. Linn's associates. Shortly after the adjournment of the conference the discussions were renewed. As in the case of Floyd's bills,

there was a gradual toning down of the provisions, in the successive sessions of congress, so that the movement which started by advocating the establishment of a territory to be called the Oregon Territory, erection of a fort on the Columbia, occupation of the country by a military force, the establishment of a port of entry subject to the revenue laws of the United States, ended by advocating a line of forts along the route to Oregon, a post near its mouth, a grant of six hundred and forty acres of land to every male settler cultivating the land for five years, appointment of Indian agents to regulate affairs with the native races, and extension of the jurisdiction of the courts of Iowa over the territory west of the Rockies. The bill provided an increase of judges, justices, and constables, to meet the increase of business, and English subjects charged with criminal offenses were to be given up to the English courts. This bill passed the senate by a vote of twenty-four to twenty-two, in February of 1843, but failed of passage in the house. Thus Linn, like Floyd, was rewarded for his service by seeing his measure pass the house of which he was a member, but any further hopes were cut off by his death before the next session of congress.

The discussions bring out little that had not been said before. The question of the claims, which had figured so little in the previous debate, was an all important theme of discussion at this time. The language used shows a growing feeling of bitterness toward the English, and anxiety to secure such an arrangement as would encourage emigration. The large grants of land were especially for that purpose. It was in the course of this debate that Mr. Benton used these words: "I now go for vindicating our rights on the Columbia, and as the first step toward it, the passing of this bill, and

making these grants of land, which will soon place thirty or forty thousand rifles beyond the Rocky Mountains.''⁹

In the course of the discussion, Linn's policy had received many reinforcements from without. It was about this time that the naval officer whom President Jackson had appointed, made a report which showed the need of action. In the beginning of the new agitation of the question, the Rev. Jason Lee, head of the Methodist missionary movement in the Willamette Valley, appeared in Washington. He had performed the long and dangerous journey across the plains, partly in the interests of his mission and partly in the interests of settlement and a civil government. Although a Canadian by birth, he early identified himself with American interests as best adapted to the successful accomplishment of his missionary enterprise. Although he had gone into the country in the interests of the natives, he was soon convinced that their interests would be served not alone by laboring with them, but by building up a moral and religious community. He was the bearer of a petition to congress from the colonists. It was signed not alone by those connected with the mission, but by some of the French and Canadian ex-employees of the Hudson's Bay Company, who had started an agricultural settlement on a beautiful tract of land called the French Prairie, in the Willamette Valley. This document set forth the history of the mission settlement, the prosperity which had attended it, the resources of the country for agricultural purposes, the advantage of its position for trade with China, and urged upon the United States the extension over it of a civil government, both in the interests of the colonists and of the country at large. It

⁹Thirty Years in the Senate.

showed how the nucleus of a settlement was started; it dwelt upon the previous dependence upon the Hudson's Bay Company, a relation which could not be expected to continue long in the changing conditions. While in the east, Mr. Lee delivered lectures at various points, and exhibited two Indian lads whom he had brought with him. In reply to inquiries from Hon. Caleb Cushing, who led the debate in the house, and who had been appointed upon a committee to make inquiries, he wrote a letter containing these significant phrases. "The country will be settled, and that speedily from some quarter, and it depends very much upon the action of congress what that population shall be, and what shall be the fate of the Indian tribes in that territory. It may be thought that Oregon is of little importance, but rely upon it, there is the germ of a great state. We are resolved to do what we can to benefit the country, but we are constrained to throw ourselves upon you for protection."

Other petitions were also received from the colonists which were stronger in their wording, exaggerating some things, and even making representations which, because of too hasty conclusions, were misrepresentations of the facts. They were, however, well adapted to be of service in the struggle for results. Petitions were likewise received from bodies of prospective emigrants, who asked for action by the legislature in granting lands and in furnishing the protection of the government. Memorials from Nathaniel J. Wyeth and Hall J. Kelley also were presented to the house by Mr. Cushing, and gave information concerning the physical and social conditions west of the Rockies. In this second campaign the executive support was more conservative than had been given by Monroe and Adams. It was the recommendation of President Van Buren to congress, that garrisoned

forts be established along the route for the protection of emigrants, for he thought that the gradual settling of this country would so far prepare the way for an adjustment favorable to American interests, that the possession of the country and the establishment of a civil government would be effected without danger. The failure, likewise, of the conference of 1842 to conclude the settlement of the northwestern boundary at the same time that it fixed that in the northeast, was a great disappointment to the people, who had been expecting some action. President Tyler felt it necessary to offer an explanation in his message to congress in which he referred to the fear of a protracted discussion, and the obstructions that might have been put in the way of settling the northeastern boundary by connecting it with a discussion of the northwestern.

This debate, like the previous one, was fraught with significant results, and the gain was substantial. Although it had failed of its immediate purpose, although it had been defeated in that body of congress in which it might most naturally look for success, and although the leader of the cause in the house, Hon. Caleb Cushing, counseled delay, because of the danger of complications with England, the effects, nevertheless, became apparent even before the debate was ended. Through the suggestion of Mr. Lee, an immediate step in advance was taken. It was decided that the government could, without violating the terms or the spirit of the existing treaty, send some one who should act as an agent of the government in dealing with the Indians, whose duty it should be to make treaties with them and establish such relations as would insure safety during the period of transition. This officer was to bear only the title of sub-Indian agent, but it was suggested to the colonists that his usefulness to them might be increased by entrusting him with such

additional authority as they thought fit to grant voluntarily ; that he might, if they so wished, act as a virtual governor of the colony. It will readily be seen that this office, by virtue of its indefiniteness, was one of peculiar difficulty. The effectiveness of the plan was also considerably diminished by the appointment of a man, Dr. Elijah White, who had previously been in the country and incurred some enmities. He was, however, cordially received, and entered upon his duties with hopefulness. The growing hostility of the Indians made immediate and almost continuous exercise of his authority necessary, and many treaties were made pledging the natives to respect the life and property of Americans. The previous authority of the English company had now to be shared with the American government, so far at least as Indian affairs were concerned. Thus a step in advance had been taken toward the realization of an American civil government, but it is questionable whether divided authority in dealing with Indians tended to security of life and property, especially where there was no means of enforcing the obligations of treaty agreements. In the exercise of authority along other lines, less success was experienced.

Another result was the sending of Lieutenant Charles Wilkes, Commander of the Pacific squadron, upon a cruise along the coast, with instructions to make investigations, and General John C. Fremont, to examine the overland routes. Both of these men were officers in whom confidence was reposed and whose opinions would have weight. The government did not recognize the need of such urgency of action as the people desired. It seems to have felt that its duty was discharged by commissioning officers to investigate the condition of things, by ordering an occasional vessel of war into the neighborhood, and by sending a sub-Indian agent to

prevent any depredations that the Indians might be disposed to commit. It seems to have felt that the few colonists already there were in no immediate danger of suffering injury, if they used good judgment, while the natural barriers to emigration would render additions to the population very slow.

Viewed from the standpoint of the colonists, however, everything was different. The Indian agent, without military aid, could not render effective service; Lieutenant Wilkes, because he was on friendly terms with the officers of the English company, was thought to be too much under their influence; session after session of congress was passing away without any action for the establishment of military posts, or the extension of civil government over the territory. It is but natural, under the circumstances, that the colonists should take the matter into their own hands, and do what the exigencies of the situation demanded. The formation of the pioneer provisional government may be regarded, therefore, as an example of the true American spirit, exhibiting a resourcefulness equal to every emergency.

The origin of institutions is complex, and doubtless many motives combined to bring this one into existence. Its purpose as expressed in the organic laws, drawn up as the constitution of the state, was declared to be: "Mutual protection, and to secure peace and prosperity among ourselves."¹⁰ This general statement, however, probably sums up a number of motives not specified. Most prominent among these were the feeling of nationality, the love of a democratic type of government, the desire for power to control the character of population that should come in, anxiety to secure permanent titles to the lands taken up, equal rights in the pursuit

¹⁰Oregon Archives, by Grover, are the authority used on the provisional government.

of the fur trade, protection from the Indians, prevention of lawlessness among a mixed population, facilities for the conduct of such business as growing numbers made necessary, and, perhaps, in some cases, personal ambition to exercise authority.

The idea seems to have had its origin among the missionaries and settlers in and about the Methodist mission station in the Willamette Valley. Although the subject had been under consideration before, the first effective step taken was in February, 1841, at the funeral of a settler, who died without heirs, and for the administering of whose estate there was no authority then in existence. A resolution was passed, expressing the need of a civil government, and a call was given for a general meeting to be held at the mission. At this meeting a committee was appointed, consisting of the various elements into which the community, though small, was divided, and was instructed to draw up a plan of government and report at a specified time. A judicial officer with probate powers, together with a sheriff and two constables to meet immediate wants, were also appointed. Although an attempt had been made, in the choice of the committee, to secure harmony, yet it never met to fulfill its task. When the general meeting, therefore, assembled at St. Paul's church, the Catholic mission station, there was nothing to report. The committee was reconstructed and a resolution passed to submit the matter to Dr. McLoughlin and Lieutenant Wilkes before further action was taken. As both of these men advised delay the matter was dropped for two years.

The idea, however, was kept alive, and was the subject of discussion at the meetings of a debating society at Willamette Falls, now Oregon City. The subject was again formally suggested at a meeting held at the house

of one of the settlers, for the purpose of taking measures to protect the cattle from wild animals. At the close of a series of resolutions dealing with wolves, bears and panthers, was one calling attention to the need of a civil government, and providing for a general meeting for discussion and decision. The meeting was held as provided May 2, 1843, at Champooick, between the present sites of Salem and Oregon City, and was an occasion of great interest and excitement. Opinion had been shaping itself on both sides, and the opposing views were fully represented.

The principal cause for anxiety was the body of Hudson Bay ex-employees, who were located in the valley. Most of them were French or Canadians, Catholics, and largely under the influence of the English Company. Although some of them were favorable to a government, the majority were not, and their views are quaintly summed up in an address prepared for presentation at a later public meeting. They objected to a provisional government as too "self-interested and full of degrees, useless to our power, overloading the colony instead of improving it." They proposed in its place a council, composed of men from all parts of the country "to judge the difficulties, punish the crimes and make regulations suitable for the people." They regarded a militia as useless and "a danger of bad suspicion to the Indians." The country was considered as "free at present, to all nations, till government shall have decided; open to every individual wishing to settle, without distinction of origin, and without asking him anything, either to become an English, Spanish or American citizen." There were also some general reflections to the effect that, "The more laws there are, the more opportunity for roguery for those who make a practice of it;" and "in

a new country, the more men employed and paid by the public, the less remains for industry."

It was known that the vote was to be close. The Canadians had been drilled to vote "no" on every proposition, and their strength was determined in an amusing way, by moving a question to which they would naturally have voted "yes." When the question of having a government was put to a vote the result was so close, that the chairman was in doubt. A division of the house was called for, and at this critical point, Joseph Meek, a typical frontier character, strode forward with the words: "Who's for a divide? all in favor of the report and of an organization, follow me." When the vote was counted, it was found to be in favor of a government.

After this decision had been made there was still a difference of opinion concerning the kind of government to be established. Some were in favor of complete independence, while others wanted a provisional government that should last until that of the United States should be extended over the country. The English interests, unable longer to prevent some action, now directed their influence toward securing an independent government, under the protectorate of England, if possible, and independent of the United States at any rate. The decision favored a provisional government, and a committee of nine was appointed to draft a plan to be submitted to the people at a meeting to be held at Champooick on the fifth of July, 1843. This committee is of great importance in the history of civil government in Oregon, because of the responsibility which rested upon it, and because of the excellence of its work. Its members were neither learned nor acquainted with the law, but they possessed good judgment and common sense. Their meeting place was an old barn belonging to the Methodist mission.

In the drawing up of their organ of government they very wisely adopted the ordinance of 1787, making such changes as the peculiar local conditions rendered necessary. There was, first, a bill of rights, providing for freedom of religious belief and worship, the right of *habeas corpus* and trial by a jury of peers, proportionate representation, judicial procedure according to common law, moderate fines and reasonable punishment, encouragement of morality and knowledge, maintenance of schools, good faith toward the Indian, and the prohibition of slavery. There was, also, provision for the necessary organs of government, a legislative branch, to consist of nine members, elected annually; an executive branch, to consist of a committee of three; and a judicial department, to consist of supreme and associate judges, a probate judge, and justice of the peace. Provision was made for subordinate officials, a battalion of soldiers, and grants of land to settlers. On the appointed day the meeting convened at Champooick to receive the report. It came, opportunely, on the day following our national holiday. Although the general sentiment seems to have been friendly to the movement, yet there was enough variety of opinion to lend spice to the occasion. When the plan drawn up had been reported to the people, its provisions were readily passed. The principal discussion took place in regard to the executive. It had not been the purpose to have any executive at all, on account of the rivalry for the governorship, which unfortunately existed at a time when united action was desirable. The committee, upon their own responsibility, had recommended as a compromise an executive committee of three. Although it was characterized by the opposition as a "hydra-headed monster," and a "repetition of the Roman Triumvirate," it was finally accepted.

After the adoption of the organic laws, and the elec-

tion of the necessary officers, the government went into operation. It had no provision for taxation, and its expenses had to be met by voluntary subscription. It had no public buildings, and for a time had to meet at private houses. It soon became apparent that there were defects in the plan of government as at first adopted. It was found to be unfitted for governing a community of any large number, or for any long period of time. It had been prepared only for a temporary purpose, and only for a short time. Its very imperfections, however, were virtues to those who feared that a more perfect government would lead to independence from the United States, which was an all-absorbing question among the colonists and the basis of their party distinctions. As time passed, however, and the United States took no action toward extending her government over the colony, it became apparent that something must be done to make the provisional government stronger and better fit to endure a longer delay, and to govern more effectively the larger numbers which were coming into the country. The first message of the executive committee, therefore, contained the following words: "At the time of our organization it was expected that the United States would have taken possession of the country before this time, but a year has rolled around, and there appears little or no prospect of aid from that quarter, consequently we are yet left to our own resources for protection. In view of the present state of affairs, we would recommend to your consideration the adoption of some measures for a more thorough organization."¹¹

The changes recommended were: Creation of a single executive in place of a committee of three; increase in the number of representatives in the legislative department; change in the judicial system, together with

¹¹Oregon Archives.

changes in certain specific subjects more of the nature of statute than fundamental law. The recommendation was followed and the changes were made. This first session of the governmental body, indeed, was prolific in legislation. Not only did it make these changes, but an act was passed more exactly defining the jurisdiction of the government. In the original plan it had been vague, and was by this act confined to the region south of the Columbia River. Provision was likewise made for the raising of revenue sufficient to carry on a more effective government, and all who refused to pay their taxes were denied the right of suffrage and the benefits which the government conferred. This was an effective mode of winning the support of some who had stood aloof. Acts were passed prohibiting the manufacture and sale of intoxicating liquors, and negroes and mulattoes were excluded from the territory upon penalty of whipping. It was the desire of the members of this first legislature to call a constitutional convention for making the organ of government more perfect and putting the changes already made into permanent shape. It met with opposition, however, because of the fear that it might drift into an independent government, toward which there was in many directions a strong tendency.

The session of 1845 was made up largely of the American party, and these men soon began the work of making what they refused to call a "constitution," but called a revised "compact," to be submitted directly to the people. The compact secured most of the changes already made, drew a distinction between statute and fundamental law, was well worded, and removed the vagueness of previous provisions. This was in accordance with the sentiment which existed in the colony, and was, therefore, adopted by vote of the people at a special election, July 26, 1845. These changes were made possible

by the greater legal talent which came with the migrations of 1843 and 1844, and were made necessary by the increase in population and the delays of the national government. For three years longer the provisional government was in force, exercising all the sovereign functions of government; and, before superseded, it carried on a war with the Indians.

Thus came into existence that government which has been characterized by one who was in a position to know as, "strong without an army or navy, and rich without a treasury;" so effective "that property was safe, schools established and supported, contracts enforced, debts collected, and the majesty of the law vindicated."¹² This is a judgment quite generally endorsed by the oldest of the pioneers who look back to it with pride and affection.¹³

The formation of the provisional government met with no opposition from congress or the President. In fact, there is nothing to show that it received any formal attention at all. It was, however, whether so recognized or not, a long step in advance. All that the United States government could wish to accomplish in securing an equal foothold in the territory, was brought about without action on its part and without complications that might have accompanied an extension of a United States territorial government over the country, as provided by the various bills. Every issue which the government itself could have forced, was forced by the pioneers themselves. A permanent break was made in the old order of things; the fur trading regime was forced to give place to an agricultural civilization. The way was prepared for a distinctly American government. The final settlement of the Oregon question was made easier than it

¹²J. Quinn Thornton. ¹³Conversation with A. Hinman, pioneer of 1844.

otherwise would have been ; and a splendid demonstration was given of the fact so often seen in the history of nations, that crises are settled most effectually by the people of the nation themselves. The English made an effort to adjust themselves to the new conditions and preserve their old authority. But their autocratic social machinery, which probably had been best fitted for the period of the fur trade, was unable to cope with the democratic provisional government in meeting the needs of an agricultural settlement. It was the passing away of one type of social order as the conditions themselves changed, a fact well verified by the cordial support the new order of things received from many who had opposed its formation.

The effect of the change upon the Indian people was more serious. The passing away of the old was fraught with great significance to them. The entrance of the new meant the gradual loss of their lands and the changing of their habits of wilderness existence. It was not long ere the new government found itself involved in difficulties growing out of these conditions, with which it was not able to grapple alone. When the time of greatest need drew near, however, it was possible to take another step in the gradual development of civil government, as it was necessary for the national government to take some steps in the protection of its citizens against the Indians. The events which led up to, and which made possible this result, so long struggled for, are as romantic and stirring as anything that has ever occurred in our history.

In tracing the influences which were at work to bring about the further steps in the development of civil government, we need, first, to note the effect produced by the treaty of 1842, which settled the northeastern boundary. That annoying question, which had been under dispute so long, had, by virtue of the anxious desire to

reach a conclusion, done much to retard the settlement of other questions of difference, particularly that of the northwestern boundary. But, now that the settlement had been reached, the way was clear for attention to this question by itself, and freed from its bearing upon other issues. Such a condition of affairs is surely a significant one in the development of our subject. Its immediate importance was, of course, connected with the boundary question; but the extension of a civil government was waiting upon that, and its fate inseparably connected with it. In his message of December, 1842, while explaining the omission of a settlement from the treaty just concluded, Tyler manifests something of the freedom gained, in a bolder statement than had appeared from the executive department for many years: "The territory of the United States, commonly called the Oregon Territory, lying on the Pacific Ocean, north of the forty-second degree of latitude, to a portion of which Great Britain lays claim, begins to attract the attention of our fellow citizens, and the tide of population, which has reclaimed what was so lately an unbroken wilderness, in more contiguous regions, is preparing to flow over those vast districts which stretch from the Rocky Mountains to the Pacific Ocean. In advance of the acquirement of individual rights to those lands, sound policy dictates that every effort should be resorted to by the two governments to settle their respective claims."

While the colonists were urging on the formation of the provisional government, and the national policy was pervaded by the greater freedom shown in Tyler's message, another influence was brought to bear toward the accomplishment of the result. It was in the spring of 1843 that Dr. Marcus Whitman, head of the Presbyterian and Congregational mission at Wailatpu, near the present site of Walla Walla, appeared in Washington. He

had made the long and dangerous journey in the winter season, when hardy mountain trappers would scarcely dare to try it. Almost frozen by the cold, and nearly lost in the blinding snow storms, he finally reached his destination. This heroic journey was made partly in the interests of his mission work, and partly to awaken such interest in the country that immigrants would come, and that the government would protect them in their coming. Although, before this time, he had been attentive to his work among the Indians, and, by reason of the location of his mission, had been compelled to exercise caution and reserve, yet he was always an ardent admirer of American institutions and looked forward to their final extension over the country. He was a quiet yet earnest advocate of the provisional government, and was fully aware of the means by which further results were to be secured. The gradual settlement of the country by industrious and moral people, a strict and friendly observance of the terms of the treaty, a self-imposed system of government suited to existing needs, a final settlement of the boundary that would preserve the territory that rightly belonged to the United States, and a final incorporation into the nation when possible, would seem to express his position.

Both among the colonists and in the east the feeling was prevalent that in settlement rather than in congressional action lay the issue of the Oregon question. Heroic work had been done in congress, and heroic work was being done by the colonists themselves. There were indications, also, that the English were awake to the importance of settlement. Already they had a number of Canadian and French ex-employees of the company in the valley of the Willamette; a body of emigrants had just come to the country around Puget Sound, and various rumors were afloat of settlement on a larger

scale. As the success of the Americans' hopes rested now on settlement, this was, indeed, a critical moment for the advocates of provisional government and the final extension of the institutions of their native land. It was a time for heroic action, and the journey of Marcus Whitman will always be named as one of the most significant, as well as romantic events in the history of civil government in Oregon.

Such an ambassador could not fail of a hearing, and conferences were held both with the President, John Tyler, and the Secretary of State, Daniel Webster. Dr. Whitman emphasized the value of the country, and what was more significant, the possibility of reaching it by wagon. Any abandonment, however, of the Oregon cause beyond a reasonable compromise, seems scarcely possible to one who has traced the government's relation to the question from the beginning. And even such a compromise would seem uncalled for, when the northwestern boundary question stood by itself freed from other objects. Some of the friends and associates of Dr. Whitman, however, are authority for the statement that some such sacrifice was in contemplation and had practically been made before his appearance in Washington. If the evidence that comes to light confirms the advocacy of such a policy by Mr. Webster, it would have been a surprise to every one, and would have met a storm of opposition when made public, and could hardly have been ratified, in view of the fact that popular interest had never been greater, presidential support never more hopeful, and the records and traditions regarding the boundary line had never considered seriously any settlement below the forty-ninth degree of latitude.

Upon his return west in 1843, Mr. Whitman wrote to the Secretary of War an account of his journey, and the

emigration that had gone west that year. It was the first large emigration, numbering about one thousand people, and had been guided through the mountains by Mr. Whitman, making the entire journey by wagon. Accompanying this letter was the draft of a bill providing for the establishment of forts at various points along the route for the protection of further emigration. This seems to have been done in accordance with an understanding, reached during his stay at Washington, and marks the policy of the government until the end was reached.

The succeeding messages of President Tyler are firmer in their tone and give more space to the subject. In the message of December, 1843, he said : "After the most rigid, and, as far as practicable, unbiased examination of the subject, the United States have always contended that their rights appertain to the entire region between forty-two degrees of latitude and fifty-four degrees and forty minutes. * * * In the meantime it is proper to remark that many of our citizens are either already established in the territory, or are on their way thither for the purpose of forming permanent settlements, while others are preparing to follow ; and, in view of these facts, I must repeat the recommendations, contained in previous messages for the establishment of military posts at such places along the line of travel as will furnish security and protection to our hardy adventurers, against hostile tribes of Indians, inhabiting those regions. Our laws should also follow them, so modified as the circumstances may seem to require. Under the influence of our free system of government new republics are destined to spring up, at no distant day, on the shores of the Pacific, similar to those existing on this side of the Rocky Mountains, and giving a wider and more extensive spread to the principles of civil and religious liberty."

Still stronger is the language of the message of December, 1844, when the notification of another conference is accompanied by the words: "The establishment of military forts along the route at suitable points upon the extended line of land travel would enable our citizens to emigrate in comparative safety to the fertile regions below the Falls of the Columbia, and make the provision of the existing convention for joint occupation of the territory more available than hitherto, to the latter. * * * Legislative enactment should also be made which should spread the ægis over him of our laws, so as to afford protection to his person and property, when he shall have reached his distant home. In the latter respect the British Government has been much more careful of the interests of such of her people as are to be found in that country, than the United States. Whatever may be the result of the pending negotiations, such measures are necessary. It will afford me the greatest pleasure to witness a happy and favorable termination to the existing negotiations upon terms compatible with the public honor, and the best efforts of the government will continue to be directed to this end."¹⁴

But other influences were at work to bring about these changes. Then, as now, the scent of politicians for issues to place in their platforms for winning votes, were keen. And here was a question well fitted to their purpose. The southern wing of the democratic party was anxious to annex Texas in the interests of slavery, and an annexation of Oregon to satisfy the northern wing was a shrewd move to gain votes and place James K. Polk in the presidential chair.¹⁵ It was a bold stroke, and might easily bring on war with England. But now

¹⁴Messages of the Presidents, by Richardson, is authority for statements of Presidents.

¹⁵Blaine's Twenty Years in Congress.

all the fears of entanglement, which had furnished the theme of many an eloquent discourse were thrown aside, and the country entered upon an exciting campaign, in which the rallying cry was "Fifty-four, Forty or Fight." In spite of angry threats of war on the part of England, Mr. Polk was elected, and the administration was committed to a settlement of the question.

In his inaugural address, Mr. Polk referred to the subject as follows: "It will become my duty to assert and maintain by all constitutional means the right of the United States to that portion of our territory which lies beyond the Rocky Mountains. Our title is 'clear and unquestionable,' and already our people are preparing to perfect that title by occupying it with their wives and children. But eighty years ago our population was confined on the west by the ridge of the Alleghanies. Within that period our people, increasing to many millions, have filled the eastern valley of the Mississippi, adventurously ascended the Missouri to its head springs, are already engaged in establishing the blessing of self-government in the valley of which the rivers flow to the Pacific. The world beholds the peaceful triumphs of the industry of our emigrants. To us belongs the duty of protecting them wherever they may be upon our soil. The jurisdiction of our laws and the benefits of our republican institutions should be extended over them in the distant regions which they have selected for their homes. The increasing facilities of intercourse will easily bring the states, of which the formation in that part of our territory cannot long be delayed, within the sphere of our federative Union. In the meantime every obligation imposed by treaty or conventional stipulation should be sacredly respected." In the message of December, 1845, he said: "Beyond all question the protection of our laws and our jurisdiction, civil and criminal, ought to be im-

mediately extended over our citizens in Oregon. They have had just cause to complain of our long neglect in this particular, and have in consequence been compelled, for their own safety and protection, to establish a provisional government for themselves. Strong in their allegiance and ardent in their attachment to the United States, they have been thus cast upon their own resources. They are anxious that our laws should be extended over them, and I recommend that this be done by congress with as little delay as possible to the full extent to which the British parliament have proceeded in regard to British subjects in that territory. * * *

The British proposition of compromise, which would make the Columbia River the line, south of the forty-ninth degree, with a trifling addition of detached territory north of that river, can never for a moment be entertained by the United States." Considerable space in the message was given to this subject, and recommendations were made for Indian agencies, custom houses, postoffices, and post roads, a surveyor of lands, liberal grants to settlers, the jurisdiction of the United States laws, and the required year's notice to England of the expiration of the treaty of joint occupancy.

With considerable of the jingo spirit in the house, and with commendable moderation in the senate, a notice was finally prepared which would accomplish the result without giving offense. England, realizing that longer delay might only injure her cause, finally took the initiative and proposed the conference which met in 1846, and settled the boundary by a compromise at the forty-ninth degree of latitude.

The settlement of the boundary line was the result that had been looked for so many years, and it would seem that nothing longer stood in the way of a realization of the hopes of all who favored the extension

of the national government as far, as the Pacific Ocean. One after another the obstacles had been falling away. The knowledge and facilities of travel which enabled yearly trains of emigrants to cross the plains were eliminating the element of distance. The advance of a sturdy population carrying westward breadth of views and force of character was deciding the national policy, and the settlement of the boundary line removed a multitude of difficulties which filled the whole period of joint occupancy. Why then should there be longer delay? Action was expected by the people, the needs were growing greater every day.

It is easily explained. The very cause which had gained for the nation the territory, now operated to retard the passage of a bill which would make it a territory in government. The question in the last phase of its existence had gained entrance into the party politics of the country, which at that time were identified with the question of slavery and its extension into new territory. Though every barrier was removed, though Dr. Whitman with thirteen others had been murdered by Indians, though an urgent petition was received from the provisional government pleading for action, though two special messengers were sent to Washington to hasten legislation, though the democratic party was pledged to complete the work begun, though the President sent a special and urgent message to congress, though the territory in question was wholly outside of the belt where slavery might reasonably be expected to exist, yet an obstinate desire to maintain the abstract doctrine, and prevent any reflections upon the unholy institution of slavery, was responsible for this delay.

The President in his message of December, 1847, said :
“Besides the want of legal authority for continuing their provisional government, it is wholly inadequate to pro-

tect them in their rights of person and property, or to secure to them the enjoyment of the privileges of other citizens to which they are entitled under the Constitution of the United States. They should have the right of suffrage, be represented in a territorial legislature by a delegate in congress, and possess all the rights and privileges which citizens of other portions of the United States have hitherto enjoyed, or may now enjoy."

While the executive department was strongly urging the question, it was receiving attention likewise in congress. After the death of Senator Linn, new advocates of the subject came forward, both in the house and in the senate. Bills and resolutions were before the legislature continually. Memorials came in from bodies of prospective settlers, from city councils, and even from state legislatures. The provisional government sent petitions in behalf of the colonists, which were well worded statements of the situation. Atchison and Hughes, both of Missouri, introduced bills, in which the boundary line at fifty-four degrees, forty minutes, was asserted. The notice of the termination of the treaty of joint occupancy was given which led to the conference of 1846, and the settlement of the boundary. After the treaty, various bills were introduced for the establishment of a territorial government. For two years obstructions and delays prevented action, and the last session under Polk's administration arrived. There were at this time two bills before congress, both practically framed by Stephen A. Douglas, of Illinois. The interest manifested by Mr. Douglas in this matter again illustrates how much the development of civil government in Oregon is connected with other questions. He seems to have been largely interested in the creation of new territories out of the possessions west of the Mississippi. In a conversation before his death he stated to a friend, who has reported it in a

treatise, that this interest was caused by a conviction that there was a settled policy in the east to prevent the westward growth of the nation by settling the Indian tribes, as they were gradually being moved upon the public lands west of the Mississippi. Not only would this prevent a large part of that valley from being settled and becoming a part of the nation, but would completely cut off the line of emigration to Oregon, retarding its growth, or destroying it altogether.¹⁶

An unfortunate amendment touching the question of slavery was made to Mr. Douglas' bill, and from that time on the main issue was buried out of sight in the discussion of the slavery question. The representatives from the south would not sanction a denial of their right to take their slaves with them into any of the new territories. Various attempts were made to sidetrack the question by joining its destiny with that of California and New Mexico, and various efforts at compromise were made. As the last day of session came, the anxiety was intense. The bill was before the senate for decision. The subject occupied the greater part of the day, and was continued into the night. Many of the leading men took part in the discussion. It was the policy of the opposition to delay action until the expiration of congress. Mr. Benton called attention to the urgent need for immediate action in somewhat exaggerated language: "A few years ago we were ready to fight all the world to get possession; and now we are just as willing to throw her away as we were then to risk everything for her possession. She is left without a government, without laws, while at this moment she is engaged in a war with the Indians. There are twelve or fifteen thousand persons settled there who have claims on our protection. She is three thou-

¹⁶Brief Treatise on Constitutional and Party Questions by S. A. Douglas. Reported by J. M. Cutts.

sand miles from the metropolitan seat of government. And yet, although she has set up a provisional government for herself, and that provisional government has taken on itself the enactment of laws, it is left to the will of every individual to determine for himself whether he will obey those laws or not. She has now reached a point beyond which she can exist no longer?"¹⁷ The opposition spirit is illustrated in the equally exaggerated remarks of John C. Calhoun: "The separation of the north and south is now completed. The south has now a solemn obligation to perform to herself, to the Constitution, to the Union. She is bound to come to a decision not to permit this to go on any further, but to show that, dearly as she prizes the Union, there are questions which she regards as of greater importance. She is bound to fulfill her obligations as she may best understand them. This is not a question of territorial government, but a question involving the Union." It is interesting to hear Mr. Webster's views as summed up in the *Congressional Globe*: "His objection to slavery was irrespective of lines, and points of latitude. He was opposed to it in every shape, and in every qualification. He was against any compromise of the question." At the close of the day a motion to lay the bill on the table was defeated. The evening was given to discussion, and a motion to adjourn was lost. As the night passed away, the friends of the bill reclined in the ante-rooms ready to vote if an opportunity came, while a few kept guard in the senate chamber. A motion at midnight to adjourn was lost. A senator from Mississippi arose for the purpose of killing time. Until 9 o'clock the following morning, which was Sunday, he gave a rambling history of the world, beginning with the story of the creation. Exhausted, either

¹⁷*Congressional Globe* is authority used for remaining discussions in congress.

in strength, material, or obstinacy, he finally sat down. Senator Benton, ever on the alert, immediately moved the passage of the bill. It was carried in a short time, and taken to the President for his signature so that it might become a part of his administration. Thus Oregon became a territory August 14, 1848. It was a very fitting thing that Senator Benton, who had from the first championed the cause, should have the satisfaction of seeing it finished.

The provisions of the bill making Oregon a territory resembled those of other bills of a similar kind in most particulars. The special messengers, J. Quinn Thornton and Stephen L. Meek, had been able to make suggestions which fitted the bill to the peculiar needs of the new territory. It was notable in being the first bill to set aside two townships of land, instead of one, for the purpose of supporting schools. It recognized the machinery of government already in existence, and endorsed the provisions of the ordinance of 1787, which had already been adopted, in regard to slavery. The transition from the provisional government to the territorial was easily made, and Oregon started out on a new era of existence. The first Governor appointed, Gen. Joseph Lane, referring later in congress to the experience of this time said: "When I arrived there, in the winter of 1848, I found the provisional government working beautifully. Peace and plenty blessed the hills and vales, and harmony and quiet, under the benign influence of that government, reigned supreme throughout her borders. I thought it was almost a pity to disturb the existing relations, to put that government down and another up. Yet they came out to meet me, their first Governor, under the laws of the United States. They told me how proud they were to be under the laws of the United States, and how glad they were to welcome

me as holding the commission of the general government."

The period of territorial government was one of growth along all lines. Trouble with the Indians, increase of population, development of industrial life, and the various needs of a growing community, made many drafts upon the new government. It was not long before the largeness of the territory made a division desirable. The people north of the Columbia, separated from those to the south by geographical boundaries, and possessing interests of their own, voted to request the formation of the Washington Territory. This was granted by congress in 1853.

It was not long before forces began to bring about the last step in the development of civil government. There were many things which led to a desire for statehood. The people, in their provisional government, had become accustomed to the complete management of their local affairs, without the supervision of any power above them. While they valued the strength that was derived from connection with the United States, there were many restrictions which troubled them. Then, too, there were other delays incident to ratification of legislation, which was vexatious, particularly to a people who had hitherto enjoyed the quick application of their own laws. The difference between the local and national policy regarding the Indian problem was another influence at work. The people, annoyed by troubles with the Indians, which were breaking out at intervals, were inclined to a policy that would remove the Indians entirely, while the general government sought to pursue a policy that was more conservative. Nor was the local pride, which the rapid progress of California into statehood had aroused, entirely without its effect. A desire was likewise manifested for the advantage that was thought to lie in the

larger representation that a state would have in congress, by the addition of two senators. Nor were ambitious politicians wanting to keep alive this belief and to accept the positions created. There were influences pulling toward the creation of a state government, with its senatorial representation, outside of the community most directly interested. There are always interests to be found in the general drift of political affairs that seek re-enforcement through the admission of new states.

So great, however, was the opposition among the people of the territory, that the calling of a constitutional convention was three times submitted to the people before it was sanctioned. There was opposition from the southern part of the territory where a plan was in contemplation for union with Northern California in the formation of a new state; there was opposition from the whig party which was growing in power and had a vigorous organ to represent it in the *Oregonian*, and there was a feeling of conservatism which felt that things were not yet ripe for statehood, expressed later so well by Matthew P. Deady, the President of the Convention, in his closing address to that body: "I have not regretted the delay that has occurred, by the country refusing to authorize a convention before this time; but on the contrary, think it has been for the best. As to mere numbers and wealth, we have doubtless sufficient of both to maintain a state government; but a people in my opinion, require age and maturity, as well as wealth and numbers to make them competent to carry on a government successfully. As in the growth of the child and the oak so with a people. Thrown together as we have been, upon this coast, it requires time to knit together in one harmonious whole our diversified elements of population."¹⁸

¹⁸Journal of the Constitutional Convention.

The Constitutional Convention met in August of 1857, at Salem, and was in session for four weeks. It consisted of sixty delegates. It was early agreed to leave the question of slavery to be decided by the people themselves, at the same time that they acted upon the constitution, and thus the greatest danger of obstruction and delay was removed. The discussions, as reported in the newspapers of the time, indicate considerable party spirit, but, for the most part, they were harmonious and marked by fairness and deliberation. Little difficulty was experienced in framing the main features of the constitution, providing for the organs of government. A general disposition favorable to economy was manifested throughout. That it sometimes went to extremes would be indicated by the dry humor of the suggestion that the chief executive of the state be requested to board around, in the good old schoolmaster fashion.

Many of the most important subjects passed with little or no discussion, but enough questions to excite differences of opinion arose to occupy the time. One of the earliest discussions was upon the boundary of the state. The sentiment was nearly all in favor of a large state, yet a proposal was made to bound it on the east by the Cascade Mountains, which were held to be the natural boundary. This, it was thought, would leave room for the creation of more states and a larger representation in the United States Senate from the west. The speeches in opposition were interesting. One of the delegates in advocating a large state expressed himself in the following words: "I am in favor of extending the area of this state as far east as we can go, go to the Missouri, if possible. I would like to take in Utah, if we could do them any good."¹⁹ Another said: "I like a large state; I was

¹⁹Reported in the Oregonian, 1857.

born and raised in one—the Empire state. Although the people of Rhode Island and Delaware may be very good people, yet I rejoice to know that I was not born in either. I do not like little states; they may have votes in the senate, but they have no political influence. Mr. Seward, black republican as he is, when he speaks in the name of the great state of New York, speaks with an authority and a weight that a Webster could not command speaking from Rhode Island.” Another discussion pertained to the introduction of a clause prohibiting the manufacture and sale of intoxicating liquors, a proposal which was finally rejected. Perhaps the longest discussion arose upon a clause rendering the stockholders of a corporation liable for its debts and obligations. It drifted into a consideration of the subject of corporations in general. The opinions expressed ranged all the way from a desire to protect the farmer against “smart gentlemen representing to them glittering schemes” to “that broader question, whether the resources of the country shall be developed or not, whether we shall have the means and facilities for creating a market here, at home, for our surplus products, and whether the capital that shall come into the country shall receive such protection as will cause it to be productive.”

In most particulars the constitution resembled, both in form and substance, those of other states of the Union. There were some distinguishing features, however. The question of slavery had been decided in the negative by vote of the people, and a clause excluding slavery introduced. There was a feeling, quite common throughout the west, against free negroes, and clauses were introduced to keep them out, by a denial of the right of suffrage, of holding real estate, and the maintenance of any suit in the courts. A somewhat similar policy was pursued toward the Chinese. The assembly was given the

right to restrain and regulate immigration, although the conditions of suffrage were made easy for the foreigner. The state was saved the experience of a wildcat medium of exchange, by denial of the right to charter any institution to issue such money. The state was prohibited from being a stockholder in a corporation, and such enterprises could only be established under general laws. The danger of extravagance in the development of the state was prevented by denying the right to incur an indebtedness beyond \$50,000.

This constitution, upon being submitted to the people, was adopted by a majority, and application was made to congress for admission, under its provisions. The constitution, though conservative in the main, provided well for existing needs, and for a safe and steady growth. There was nothing in it to encourage a hasty development or a speculative and harmful condition of industrial life. There is every reason to appreciate the good judgment of those who framed it and did much to mold the character of the commonwealth, as conservative, as sound in its social and industrial policy, and to be depended on for sober and considerate action. Located, as the State of Oregon is, upon the Pacific Coast, where much of the history of the next century must be made, itself the product of an enlarged national life, it must, of necessity, exercise a greater influence in the national policies of the future than it has in those of the past. Some of the provisions of the constitution have, of course, been made of no effect by the amendments to the National Constitution. No sufficient cause has yet arisen to make imperative its own amendment, but the growth of the state may render necessary some changes in the near future.

When the question came before congress the bill was passed without great delay in the senate and submitted

to the house. It became the occasion of discussion, but was finally passed and received the President's signature February 14, 1859. The principal objection made to its passage was the denial of a requisite population. No census had been taken since 1855, and approximations had to be made. The delegate from the territory, Joseph Lane, gave it as his opinion that there were from ninety thousand to one hundred thousand people, and his authority was finally accepted. An effort was made by some to join it with the Kansas question, and refuse it admission because that state, with a larger population, had been refused. Some opposed it because it prohibited slavery, and some because it prohibited free negroes; some opposed one specific clause of the constitution and some another, while some opposed it on party grounds and would not vote for a measure introduced by the democratic party. The final sentiment, and the one most generally prevailing, was well expressed by the representative from Massachusetts. "There are provisions in her constitution which, were I to vote upon them, could never receive my sanction. But I do not consider myself as responsible, in the vote which I give for her admission, for each and every item in her constitution. I vote for her admission on general principles. Her constitution is republican in form, and slavery is excluded from her territory forever. I regret with sadness that the people have deemed it expedient to adopt the article they have relative to free negroes, but I must regard it as but temporary and inoperative. I find no state west of New York ready to grant full rights and privileges of citizenship to free blacks; therefore it would be inconsistent to reject Oregon for this clause in her constitution. Oregon, at no remote day must be admitted as a state. If we delay her admission, no man

can foresee what intervening circumstances may occur to embarrass and embitter future proceedings.”

As we have followed, one after another, the steps in the genesis of political authority and of a commonwealth government in Oregon, we have seen the heroic efforts made by some who have stood out conspicuous as leaders; we have seen the no less heroic efforts of many whose names have received no mention, but whose part in the result has been as great; we have seen the influence of forces which were powerfully working with or against the efforts to achieve the result. We have seen a locality well fitted for the home of man pass out from the condition of a wilderness, through all the stages of development, to that high state of civilization where every individual enjoys the privilege of citizenship in a great nation, as well as all the liberties of local freedom. And although we have been engaged upon a theme of local history, in its unfolding we have beheld at the same time a gradual enlargement of national life, and a steady progress toward greater things.

JAMES ROOD ROBERTSON.